Single Bench

CR/2004

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 3802 /2004

PETITIONER : Laxmi Narayan Vaishya S/o Madhav Prasad aged about 41 years Occupation- Lower Division Clerck, at Bhanwar Singh Porte Govt. Colleage Pendra District Bilaspur R/o- State Bank Road Pendra District Bilaspur (C.G.)

VERSUS

RESPONDENTS

1. The State of Chhattisgarh Through the Secretary, Department of Higher Education, D.K.S. Bhawan Raipur (C.G.)
2. The Director, Department of Higher Education, D.K.S.Bhawan Raipur (C.G.)
3. Joint Director Department of Higher Education, D.K.S.Bhawan Raipur (C.G.)
4. The Principal Govt. Girls Collage Pendra Road, District – Bilaspur (C.G.)
5. The Principal Bhanwar Singh Porte Govt. Collage Pendra District- Bilaspur (C.G.)
6. The Commissioner Department of Higher Education, Vallabh Bhawan Bhopal (M.P.)
7. The Joint Director Department of Higher Education, Vallabh Bhawan Bhopal (M.P.)

Note: Petitioner's counsel not available

P.R. No. 3802/04
Presented by Shri ... Counsel
dated 11/10/04

3802/04

11/10/04

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(2) (5)

8. The State of Madhay Pradesh
Through the Secretary
Department of Higher Education,
Vallabh Bhawan Bhopal (M.P.)

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

(48)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 3802 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	03.2.2005 Shri F.S. Khare, learned counsel for the petitioner. Shri U.N.S. Deo, Govt. Advocate appears for the State/ respondent no.1 on advance copy. Heard on I.A.No.7850/2004. Application for urgent hearing is allowed. Heard on admission. The petitioner has filed this petition for quashing the Memo dt. 22.8.1997 (Annexure P-13) and also the notice of removal from service (Annexure P-14), dated 08.9.1997. After a bare perusal of Annexure P-14, it transpires that one month notice calculating from 08.9.1997 was given to the petitioner for termination of his services. Learned counsel for the petitioner submits that against the said notice, an Original Application No.2770/1997 was filed before the M.P.State Administrative Tribunal at Jabalpur and in the said O.A., an order dated 24.9.1997 was passed by which the tribunal has directed to maintain status quo as it existed on the date of passing of the order dated 24.9.1997. This interim order was further continued by orders dated 09.10.1997 & 19.11.1997. Thereafter, the matter was taken up on 09.12.1997, 13.1.1998 and 13.2.2002. The order sheets of the	

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मामला क्रमांक W.P. 3802 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

tribunal have been filed as Annexure P-18. Learned counsel for the petitioner submits that even after passing of an absolute order of stay in favour of the petitioner, the Principal of the institution has issued memo dated 25.9.2004 (Annexure P-19) asking the petitioner to furnish further information by 30th Sept. 2004 about the subsistence of the stay order granted in favour of the petitioner. Learned counsel further submits that a reply to this notice has been given vide Annexure P-20 dated 30.9.2004. Learned counsel further submits that the matter is at Tribunal and no development has taken place in the tribunal after 13.2.2002 and now the tribunal has been abolished, as an effect of which the order of stay granted in favour of the petitioner is still in force.

It is very unfortunate that this short information has not been clearly mentioned in Annexure P-20, a reply submitted by the petitioner to the Principal of the Institution.

In the facts and circumstances of the case, when the matter is already *sub-judice* vide O.A.No. 2770/1997, it would not be proper to take further action for quashment of the order of removal again. The petitioner may apprise the department about the pendency of his case vide O.A.No. 2770/1997. The department is also obliged to inquire about the pendency of the said original application and also about the order of

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मामला क्रमांक WP 3802 **सन्** 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

status quo, whether the same is in force or not. If the aforesaid order is still in force, due respect shall be given to the same. Since a subsequent petition on the same cause of action is barred by doctrine of *res judicata*, this court is not inclined to issue notice to the other side.

The petition is disposed of with the aforesaid observations.

Consequently, M.W.P.No.4214/2004 & I.A.No.7850/04 also stand disposed of.

C.C. as per rules.

Sd/-
Sunil Kumar Sinha
Judge